

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Scott A. Graham,**  
Petitioner-Appellant,

v.

**City of Cedar Rapids Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-101-0434**  
**Parcel No. 14184-01023-00000**

On December 12, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Scott A. Graham, was self-represented and requested the appeal take place without hearing. The City of Cedar Rapids Board of Review designated City Attorney Jim Flitz as its representative. The Appeal Board now having examined the entire record and written evidence, and being fully advised, finds:

***Findings of Fact***

Scott A. Graham, owner of residential property located at 2135 20th Street NW, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$207,152; representing \$72,800 in land value and \$134,352 in dwelling value.

Graham protested to the Board of Review on the grounds the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); the property was assessed for more than authorized by law under section 441.37(1)(b); and that there is an error in the assessment under section 441.37(1)(d). This Board notes the error claim is essentially a market value claim, and the grounds for consideration on appeal are equity and market value.

The Board of Review granted the protest in part, stating, "After consideration of all data, assessment was changed." The Board of Review lowered the assessment to \$198,557; representing \$42,542 in land value and \$156,015 in dwelling value, by changing the land rate, giving a 15% adjustment for excess frontage, and changing the quality grade of the dwelling from 4+5 to 3.

Graham filed his appeal with this Board on the same grounds. Graham claimed \$159,352 was the actual value in his protest to the Board of Review. Graham claims \$180,000 is the actual value with this Board. He seeks \$18,557 in relief.

The subject property consists of a one-story, frame dwelling having 1488 square feet built in 2010. The subject property has an unfinished basement, a 529 square-foot attached garage and the dwelling is in normal condition. The site abuts the edge of a golf course and consists of 0.266 acres.

To support his claim of inequity in the assessment, Graham submitted evidence of five properties that, in his opinion, are comparable to the subject property. The properties are located across the street from the subject property. The properties range in years built from 1927 to 2007. One comparable is a two-story home, which is less persuasive as a comparable than a one-story home. Also, the subject property has three bedrooms above grade, while three of five comparables have only two. None of the comparables back up to the golf course. Graham contends the comparables all have basement finish averaging \$14,288, where his dwelling has none. Graham made no adjustments to these equity comparables. Given the unadjusted differences in the offered properties, the evidence does not reliably show that the property is inequitably assessed.

Graham did not submit any sales comparables or market data to support a claim of over-assessed.

Graham's error claim relates to the market value of the land only. The land was sold by the city to Morris Wood Enterprises, LLC, via a Quit Claim Deed for \$25,000 in June 2010. The subject property sold in November 2010 for \$180,000 (including dwelling and land) according to the Board of

Review. The subject property received special funding (HUD), known as a "program home" which provided acquisition subsidies to bring down the cost for an effective sales price for eligible home buyers. Due to the special financing involved, the sale of the land in June 2010 and the sale in November 2010 may not represent a normal sales transaction.

The Board of Review argues the properties submitted by Graham are not the best comparables. The Board of Review submitted only two equity comparables. One of the two properties "is on the golf course." The Board of Review believes there is a premium for lots that back to the golf course. The two properties range in assessments from \$127.48 per square foot to \$133.01 per square foot. The subject property is assessed at \$133.44 per square foot.

The Board of Review submitted three comparable sales with adjusted sale prices per square foot ranging from \$130.98 a square foot to \$149.88 per square foot. None of the properties are on a golf course. This Board would consider the subject property as the fourth comparable since it sold in 2010, but the HUD special financing may be a factor distorting market value. The November 2010 sale, alone, does not establish the land value or total value for the subject property.

The Board of Review offered a proposed settlement value after further review of the subject property. Based on the comparable sales and equity comparables, the Board of Review determined that \$185,268 would be the fair market value as of January 1, 2011.

After reviewing all the evidence, we find the preponderance of evidence in the record supports the claim that the subject property is over-assessed. The best evidence in the record is the evidence submitted by the Board of Review and their revised assessment of \$185,268. We find Graham failed to provide evidence to support the claim of \$180,000 as a fair assessment. We also find Graham failed to prove the assessment was inequitable or that there was an error in the assessment.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable...(2) the amount of the assessments on those properties. (3) the actual

value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The evidence offered by Graham does not establish inequity in the assessment under the tests in *Eagle Foods* or *Maxwell*.

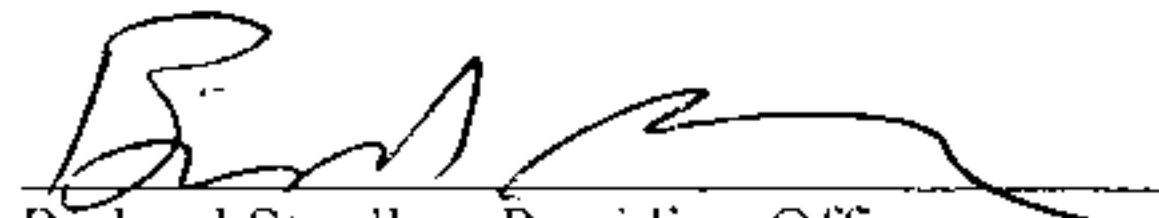
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is a statutory preference for establishing market values using sales of comparable properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 779 (Iowa 2009). The issue of comparability has two facets: the property must be comparable and the sale of that property must be a “normal transaction”. *Id.* at 782-83. When sales of other properties are offered, they must be adjusted for differences that affect market value. *Id.* at 783. These differences could include size, age, use, condition and location, among others. *Id.* In addition, if a sale is “abnormal” or not arms-length, it must be analyzed to determine if an adjustment is necessary. *Id.* We think it is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. A sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Graham’s evidence did not establish a market value for the subject property that is less than its assessment.

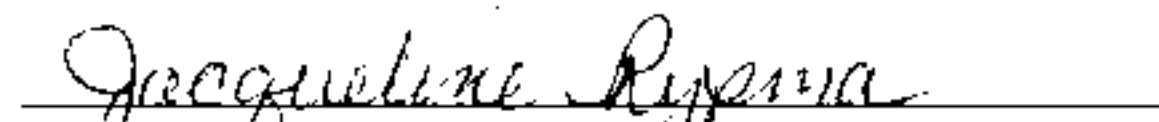
The evidence in the record, submitted by the Board of Review does support the claims brought before this Board. We, therefore, modify the assessment of the subject property located at 2135 20th Street NW, Cedar Rapids, Iowa, as determined by the Cedar Rapids City Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment of the Graham property located in Cedar Rapids, Iowa, as determined by the Cedar Rapids City Board of Review is modified to \$185,268.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Linn County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject property shall be corrected accordingly.

Dated this 9 day of March 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Member



Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-9</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Debra C. Graham</i></u>